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ADMINISTRATIVE - INTERNAL USE ONLY

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MEMORANDUM FOR: Director of Finance

ATTENTION : Chief, Policy and Systems Staff

SUBJECT : Revision of [] Travel, to Include Travel and Transportation Allowances Authorized for Travel Performed Under Orders That are Canceled, Revoked, or Modified

REFERENCE : Memo dtd 1/31/64 from Leg. Counsel to DD/S, subj.:
P.L. 88-238

1. Please review reference memorandum and law and prepare a suitable amendment to Agency regulations, coordinate it with the Office of Logistics and the Office of General Counsel, and submit to this office for further processing and publication.

2. If you find that the addition of the retroactive feature is inadvisable, please report the reasons to this office and submit appropriate alternative recommendations.

/s/ []
Special Assistant to the
Deputy Director for Support

Attachments: Reference memo and Law

cc: D/L
OGC/LC ✓

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88TH CONGRESS } HOUSE OF REPRESENTATIVES } REPORT
1st Session } } No. 414

TRAVEL AND TRANSPORTATION ALLOWANCES UNDER
CANCELED, REVOKED, OR MODIFIED ORDERS

JUNE 18, 1963.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. RIVERS of South Carolina, from the Committee on Armed Services,
submitted the following

R E P O R T

[To accompany H.R. 4338]

The Committee on Armed Services, to whom was referred the bill (H.R. 4338) to amend title 37, United States Code, to authorize travel and transportation allowances for travel performed under orders that are canceled, revoked, or modified, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the proposed legislation is to authorize reimbursement to a member of a uniformed service for travel performed by himself and/or his dependents, or both, under orders that direct him to make a permanent change of station and that are canceled, revoked, or modified, directing his return to the station from which he was being transferred or are modified to direct him to make a different permanent change of station.

Under regulations prescribed by the Secretaries concerned, sections 406 and 409 of title 37, United States Code (formerly sec. 303(c) of the Career Compensation Act of 1949, as amended (37 U.S.C. 253(c)), authorize transportation in kind or reimbursement therefor for members of the uniformed services, their dependents, and household effects which such members are ordered to make a change of permanent station. The Comptroller General, in an opinion on this subject (33 Comp. Gen. 289), has stated that for the purpose of entitlement to transportation for themselves and their dependents on change of permanent duty station, the effective date of orders is the date of detachment from the old duty station provided no delay or leave is involved. In the event that orders authorize delay or leave en route, the effective date is not the date of detachment, but the date on which the member would have been detached to arrive at the new station on

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the reporting date without delay or leave. Although travel of members and of dependents, in accordance with regulations, may commence at any date subsequent to receipt of orders, entitlement to transportation in kind or to reimbursement is governed by the status of the orders on their effective date.

The result of the definition established by the Comptroller General as to the effective date of orders therefore requires a service member either to delay the movement of himself and his dependents until the latest date on which they could travel to his new duty station, or to assume a risk that his orders may be modified before their effective date. In this case, the travel might not be reimbursable, although this latter risk is statistically small, the possible financial loss to an individual has proved to be a serious hardship.

Taking leave between permanent change of station duty assignments affords advantages both to the member and to the Government. Enactment of the proposed legislation would make this possible without subjecting members to the risk noted. The bill is retroactive in that, subject to making a claim within 1 year from the date of enactment, members who, since October 1, 1949, have incurred additional expenses for travel and transportation as the result of modification of permanent change of station orders would be reimbursed or repaid if the repayment is otherwise proper.

It is estimated that retroactive claims will involve approximately \$524,000.

Several private relief bills have already been enacted involving revoked orders.

Enactment of the proposed legislation will obviate additional private relief measures.

The proposed legislation was contained in a section of the original pay increase bill submitted by the Department of Defense. It was deleted from that bill so that it could be considered separately.

Thus, the proposed legislation is a part of the Department of Defense's legislative program for the 88th Congress.

The Bureau of the Budget has advised the Committee on Armed Services that, from the standpoint of the administration's program, there is no objection to consideration of the proposed legislation by the Congress.

The Department of Defense recommends enactment, as stated in the original letter submitted by the Department of Defense recommending enactment of the military pay increase proposal (H.R. 3006).

The Committee on Armed Services unanimously recommends enactment.

SECTIONAL ANALYSIS

Section 1, clause (1) amends chapter 7 of title 37, United States Code, by adding a new section (406a) establishing a safeguard that a service member shall be entitled to travel and transportation allowances and to reimbursement for transportation of his dependents, baggage, and household goods for travel performed under orders directing him to make a change of station that are later canceled, revoked, or modified to direct him to return to the station of origin or to another station. This section is necessary because the Comptroller General of the United States has held (33 Comp. Gen. 289) that the effective date of orders is (1) the date of detachment of a member from his duty station, if no delay or leave is involved; or

(2) the date on which the member would have been detached to arrive at his new duty station on the reporting date, if delay or leave is involved.

Clause (2) is a technical amendment to reflect the addition of new section 406a.

Section 2 makes the provisions of section 1, above, retroactive to October 1, 1949, provided the payment is otherwise proper and application therefor is made within 1 year after the date of enactment of this act.

Section 3 authorizes the use of any appropriations available for pay and allowances of service members for payments under sections 1 and 2.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, there is herewith printed in parallel columns the text of provisions of existing law which would be repealed or amended by the various provisions of the bill.

EXISTING LAW

THE BILL

That chapter 7 of title 37, United States Code, is amended as follows:

“(1) The following new section is inserted after section 406:

“‘§ 406a. *Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified*

“‘Under uniform regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances under section 404 of this title, and to transportation of his dependents, baggage, and household effects under sections 406 and 409 of this title, if otherwise qualified, for travel performed before the effective date of orders that direct him to make a change of station and that are later—

“‘(1) canceled, revoked, or modified to direct him to return to the station from which he was being transferred; or

“‘(2) modified to direct him to make a different change of station.’

EXISTING LAW

THE BILL

"(2) The following new item is inserted in the analysis:

CHAPTER 7.—ALLOWANCES

- Sec.
401. Definitions.
402. Basic allowance for subsistence.
403. Basic allowance for quarters.
404. Travel and transportation allowances; general.
405. Travel and transportation allowances; per diem while on duty outside the United States or in Hawaii or Alaska.
406. Travel and transportation allowances; dependents; baggage and household effects.

" '406a. Travel and transportation allowances: authorized for travel performed under orders that are canceled, revoked, or modified.' "

407. Travel and transportation allowances; dislocation allowances.
408. Travel and transportation allowances; travel within limits of duty station.
409. Travel and transportation allowances; trailers.
410. Travel and transportation allowances; miscellaneous categories.
411. Travel and transportation allowances; administrative provisions.
412. Appropriations for travel: may not be used for attendance at certain meetings.
413. Chairman of the Joint Chiefs of Staff.
414. Personal money allowance.
415. Uniform allowance: officers; initial allowance.
416. Uniform allowance: officers; additional allowances.
417. Uniform allowance: officers; general provisions.
418. Clothing allowance: enlisted members.
419. Allowances while participating in international sports.
420. Allowances; no increase while dependent is entitled to basic pay.
421. Contract surgeons.
422. Cadets, midshipmen, and naval officer candidates.
423. Validity of allowance payments based on purported marriages.
424. Band leaders.
425. United States Navy Band; United States Marine Band: allowance while on concert tour.
426. Prisoners in naval confinement facilities.

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EXISTING LAW

THE BILL

"SEC. 2. This Act becomes effective on October 1, 1949. Any member or former member of the uniformed services who, after September 30, 1949, but before the date of enactment of this Act, has not been paid, or has repaid the United States, an amount to which he otherwise would have been entitled had section 1 of this Act been in effect during that period is entitled to be paid or repaid that amount, if the payment or repayment is otherwise proper and he applies for the payment or repayment within one year after the date of enactment of this Act.

"SEC. 3. Any appropriations available to the departments concerned for the pay and allowances of members of the uniformed services are available for payments under this Act."

SUMMARY OF H.R. 4338

Purpose of the bill

To amend title 37, United States Code, to authorize reimbursement to a member of the uniformed service for travel performed by himself and/or his dependents, or both, under orders that direct him to make a permanent change of station and that are canceled, revoked, or modified, directing his return to the station from which he was being transferred or are modified to direct him to make a different permanent change of station.

The bill amends existing law.

Explanation of bill

Situations have arisen in the past in which personnel have been granted leave before reporting to their new duty stations, and, while on leave, their orders are changed. Under existing law personnel in this situation can only be reimbursed for travel from their old duty station to the new duty station, even though they may have left their old duty station and proceeded long distances toward the duty station designated in their original orders.

Fiscal data

The proposed legislation is retroactive to October 1, 1949, and it is estimated to involve a cost of approximately \$524,000.

Committee position: The Committee on Armed Services unanimously recommends enactment.

Departmental position: The Bureau of the Budget advises there is no objection, and the Department of Defense recommends enactment.